

Q1 In terms of setting design standards for the processing of children's personal data by providers of ISS (online services), how appropriate you consider the above age brackets would be:

- ☐ Not at all appropriate
- ☐ Not really appropriate
- ☒ **Quite appropriate**
- ☐ Very appropriate

Q1A Please provide any views or evidence you have on how appropriate you consider the above age brackets would be of setting design standards for the processing of children's personal data by providers of ISS (online services).

These categories are largely appropriate.

R17 00633_Q5n

Q2 Please provide any views or evidence about children's development needs in an online context for each, or any of the above age brackets.

**Please see R17 Attachment 1
R17 00633_Q5**

Q3 Please provide any views or evidence you have on how the Convention might apply in the context of setting design standards for the processing of children's personal data by providers of ISS (online services).

The UN Convention on the Rights of the Child (UNCRC) firmly establishes that a child is anyone under the age of 18. The UNCRC states that the overarching right of the child that states that in all actions concerning children, "the best interests of the child shall be a primary consideration" and that the implementation of the rights of children should take account of "children's development and their evolving

capacities". The Convention thus clarifies for any ISS who is a child, and what expectations there are in terms of rights and priorities. In terms of data protection this should offer any young person heightened data protection until they reach adulthood.

- Q4 Please provide any views or evidence you have on what you think the Information Commissioner should take into account when explaining the meaning and coverage of these terms in the Code?

R17 Attachment 2

R17 00633_Q5g

- Q5 Please provide any views or evidence you have on the following:

- Q5A the opportunities and challenges you think might arise in setting design standards for the processing of children's personal data by providers of ISS (online services), in each or any of the above areas.

One concern is that an ISS restricts service if a high default privacy setting or data minimisation is imposed, though helping them to develop an alternative view of data collection may assist that; some ISS can thrive without such levels of data collection. A further concern is that some vulnerable young people may be technically very able, if vulnerable social or emotionally, and be able to change settings. Conversely, someone who is emotionally resilient and socially successful may not be able to change the settings unnecessarily. Perhaps in both cases, access to specialist support could make a difference, at the right time. But the biggest challenge will be when dealing with ISS providers outside of the UK's jurisdiction. In that sense, advice and support to help companies get it right may be the better approach, and materials created to support the development of good services.

- Q5B how the ICO, working with relevant stakeholders, might use the opportunities presented and positively address any challenges you have identified.

I think examples of flourishing ISS providers, who do not seek to obtain every bit of data that they can may help reduce the frantic pursuit of more and more data as the business model. I am not certain the prospect of a fine will change behaviour sufficiently.

Q5C what design standards might be appropriate (ie. where the bar should be set) in each or any of the above areas and for each or any of the proposed age brackets.

Given that a capacity for self-control grows with age, younger children, and sometimes even younger adolescents need greater protection in terms of extending user engagement and product placements, as well as high privacy settings etc. Adolescents may be more interested in having greater control of their data, with rights to erasure etc, but also to specialist support that helps them overcome difficult situations. For all groups as before, a spirit of data minimisation rather than fine-tuning consent processes seems preferable.

Q5D examples of ISS design you consider to be good practice.

The pop-up interventions developed by the Yubo App team is a good example of understanding data protection in the context of behaviour. Prompts to stop a young person revealing too much (literally) are effective in a live stream.

Q5E additional areas (not included in the list above) which you think should be the subject of a design standard.

Extending user engagement, to obtain both data, and keep users in place to view adverts etc, has profound and wide ranging impacts, not least on sleep. giving consent and making judgements is much harder for someone who is sleep deprived The impact of persuasive design on the body, also needs consideration.

Q6 Name

[REDACTED]

Q6a Email

[REDACTED]

Q6b Brief summary of what you think you could offer

As Consultant Child & Adolescent the impact of data, obtaining consent, and considering how development colours understanding and thinking is familiar territory and part of our daily work. Emerging out of the concerns of our patients and their families, the health sector has been engaged in high level information governance for many years, which may add to the debate. In preparing this response, I have engaged colleagues at the Royal College of Psychiatrists and MindEd, who I am sure would add

Q7 Please provide any other views or evidence you have that you consider to be relevant to this call for evidence.

Q8 Are you (select one):

A body representing the views or interests of children?

A body representing the views or interests of parents?

A child development expert?

A provider of ISS likely to be accessed by children?

A trade association representing ISS providers?

An ICO employee

